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9 Attorneys for Defendant 7-Eleven, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 EDUARDO MUNOZ, individually and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 7-ELEVEN, INC., a Texas corporation,

18 Defendant.
19

Case No. 2:18-cv-03893 RGK (AGR)

**DEFENDANT 7-ELEVEN, INC.'S
ANSWER TO THE FIRST AMENDED
COMPLAINT**

JURY TRIAL DEMANDED

20 Complaint Filed: May 9, 2018
21 Trial Date: None Set
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1 Defendants 7-Eleven, Inc. (“Defendant”), hereby answers the allegations of the
2 First Amended Complaint (“Complaint”) filed by Plaintiff Eduardo Munoz
3 (“Plaintiff”), as follows:

4 1. In response to Paragraph 1 of the Complaint, Defendant denies the
5 allegation as the provisions of the Fair Credit Reporting Act (“FCRA”) speak for
6 themselves.

7 2. In response to Paragraph 2 of the Complaint, Defendant denies the
8 allegations stated therein.

9 3. In response to Paragraph 3 of the Complaint, Defendant denies the
10 allegations as the provisions of the FCRA speak for themselves.

11 4. In response to Paragraph 4 of the Complaint, Defendant denies the
12 allegations as the provisions of the FCRA speak for themselves.

13 5. In response to Paragraph 5 of the Complaint, Defendant denies the
14 allegations as the form attached as Exhibit A to the Complaint (“Form”) speaks for
15 itself.

16 6. In response to Paragraph 6 of the Complaint, Defendant denies the
17 allegations stated therein.

18 7. In response to Paragraph 7 of the Complaint, Defendant denies the
19 allegations stated therein.

20 8. In response to Paragraph 8 of the Complaint, Defendant is without
21 knowledge or information sufficient to admit or deny the allegations and on that basis
22 denies them.

23 9. In response to Paragraph 9 of the Complaint, Defendant admits the
24 allegations stated therein.

25 10. In response to Paragraph 10 of the Complaint, Defendant admits this court
26 has subject matter jurisdiction over the claims in this case.

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1 11. In response to Paragraph 11 of the Complaint, Defendant denies the
2 allegation that it engaged in any unlawful conduct but otherwise admits the allegations
3 stated therein.

4 12. In response to Paragraph 12 of the Complaint, Defendant admits this Court
5 is the proper venue for this action.

6 13. In response to Paragraph 13 of the Complaint, Defendant admits the
7 allegations stated therein.

8 14. In response to Paragraph 14 of the Complaint, Defendant admits the
9 allegations stated therein.

10 15. In response to Paragraph 15 of the Complaint, Defendant is without
11 knowledge or information sufficient to admit or deny the allegations and on that basis
12 denies them.

13 16. In response to Paragraph 16 of the Complaint, Defendant denies the
14 allegations as the Form speaks for itself.

15 17. In response to Paragraph 17 of the Complaint, Defendant denies the
16 allegations as the Form speaks for itself.

17 18. In response to Paragraph 18 of the Complaint, Defendant admits the
18 allegations stated therein.

19 19. In response to Paragraph 19 of the Complaint, Defendant admits the
20 allegations stated therein.

21 20. In response to Paragraph 20 of the Complaint, Defendant denies the
22 allegations stated therein.

23 21. In response to Paragraph 21 of the Complaint, the allegations speak for
24 themselves such that they do not require an admission or denial. Defendant denies,
25 however, that a class action is proper.

26 22. In response to Paragraph 22 of the Complaint, the allegations speak for
27 themselves such that they do not require an admission or denial.
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1 23. In response to Paragraph 23 of the Complaint, Defendant is unaware of
2 what information Plaintiff knows at this time. Defendant denies the remaining
3 allegations stated therein.

4 24. In response to Paragraph 24 of the Complaint, Defendant denies the
5 allegations stated therein.

6 25. In response to Paragraph 25 of the Complaint, Defendant denies the
7 allegations stated therein.

8 26. In response to Paragraph 26 of the Complaint, Defendant denies the
9 allegations stated therein.

10 27. In response to Paragraph 27 of the Complaint, Defendant denies the
11 allegations stated therein.

12 28. In response to Paragraph 28 of the Complaint, Defendant denies the
13 allegations stated therein.

14 29. In response to Paragraph 29 of the Complaint, Defendant denies the
15 allegations stated therein.

16 30. In response to Paragraph 30 of the Complaint, the allegations speak for
17 themselves such that they do not require an admission or denial.

18 31. In response to Paragraph 31 of the Complaint, Defendant incorporates by
19 reference the foregoing responses as if fully set forth herein.

20 32. In response to Paragraph 32 of the Complaint, the law speaks for itself
21 such that no admission or denial is necessary.

22 33. In response to Paragraph 33 of the Complaint, the law speaks for itself
23 such that no admission or denial is necessary.

24 34. In response to Paragraph 34 of the Complaint, Defendant is without
25 knowledge or information sufficient to admit or deny the allegations and on that basis
26 denies them.

27 35. In response to Paragraph 35 of the Complaint, Defendant denies the
28 allegations stated therein because the Form speaks for itself.

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FIRST SEPARATE DEFENSE

(Failure to State Facts Sufficient to Constitute a Cause of Action)

1. The Complaint and each purported cause of action asserted therein against Defendant fails to state facts sufficient to constitute a cause of action against Defendant.

SECOND SEPARATE DEFENSE

(Unclean Hands)

2. The Complaint and each purported cause of action asserted therein against Defendant fails, in whole or in part, by the doctrine of unclean hands.

THIRD SEPARATE DEFENSE

(Waiver)

3. The Complaint and each purported cause of action asserted therein against Defendant fails, in whole or in part, by the defense of waiver.

FOURTH SEPARATE DEFENSE

(No Willfulness)

4. Plaintiff's request for statutory damages fails because Defendant has not willfully failed to comply with any provisions of the FCRA.

FIFTH SEPARATE DEFENSE

(No Harm)

5. The Complaint fails in whole because Plaintiff has suffered no legally recognizable harm as a result of the matters alleged in the Complaint.

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SIXTH SEPARATE DEFENSE

(No Causation)

6. Defendant alleges that to the extent Plaintiff suffered any damages, such damages were caused by persons or entities or conditions other than Defendant.

SEVENTH SEPARATE DEFENSE

(Failure to Mitigate)

7. Defendant alleges that any damages awarded in this matter should be reduced to the extent any harm Plaintiff allegedly endured was caused by his own failure to take reasonable steps to mitigate those damages.

EIGHTH SEPARATE DEFENSE

(Consent)

8. Defendant alleges that Plaintiff's claims are barred by Plaintiff's consent, acquiescence or ratification of the acts, conduct or transactions of the Defendant and others.

NINTH SEPARATE DEFENSE

(Damages Speculative)

9. The Complaint and each purported cause of action asserted therein against Defendant fails, in whole or in part, because the damages claimed by Plaintiff are speculative.

TENTH SEPARATE DEFENSE

(Estoppel)

10. The Complaint and each purported cause of action asserted therein against Defendant fails, in whole or in part, by the doctrine of estoppel in that inter alia,

1 Plaintiff unreasonably delayed in bringing these claims after having knowledge of the
2 purported injuries alleged in the Complaint.

3
4 **ELEVENTH SEPARATE DEFENSE**

5 **(No Injunctive Relief)**

6 11. The Complaint and each purported cause of action asserted therein against
7 Defendant fails, in whole or in part, because Plaintiff is not entitled to injunctive relief
8 because any alleged injury to Plaintiff is not immediate or irreparable and Plaintiff has
9 an adequate remedy at law.

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11 **TWELFTH SEPARATE DEFENSE**

12 **(Unjust Enrichment)**

13 12. The Complaint and each purported cause of action asserted therein against
14 Defendant fails, in whole or in part, because Plaintiff is seeking to recover more than he
15 is entitled to recover such that the award being sought by him would unjustly enrich
16 him.

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18 **THIRTEENTH SEPARATE DEFENSE**

19 **(Set-Off)**

20 13. To the extent any award of damages is made, Defendant has the right under
21 the equitable doctrine of setoff to offset any overpayments and/or obligations owed to it
22 by the party to whom a damage award is made.

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24 **FOURTEENTH SEPARATE DEFENSE**

25 **(Violation of Due Process)**

26 14. The imposition of statutory and/or treble damages would violate
27 Defendant's due process rights.
28

1 **FIFTEENTH SEPARATE DEFENSE**

2 **(Statute of Limitations)**

3 15. The Complaint fails in whole or in part to the extent it seeks to recover for
4 actions taken outside of the applicable statute of limitations on the claims alleged
5 therein.

6
7 **SIXETTENTH SEPARATE AND ADDITIONAL DEFENSE**

8 **(No Class Certification)**

9 16. This action may not be maintained as a class action as Plaintiff cannot
10 establish the necessary prerequisites for class certification under Federal Rule of Civil
11 Procedure 23.

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13 **SEVENTEENTH SEPARATE DEFENSE**

14 **(Additional Defenses)**

15 17. Defendant presently has insufficient knowledge or information on which to
16 form a belief as to whether there may be additional, as yet unstated, defenses available.
17 Thus, subject to discovery in this action, Defendant expressly reserves its right to assert
18 additional defenses.

19
20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Defendant prays for judgment against Plaintiff as follows:

- 22 1. That judgment be entered in favor of Defendant, and against Plaintiff, on
23 all causes of action alleged in the Complaint;
- 24 2. That Plaintiff take nothing by way of his Complaint;
- 25 3. That the Complaint be dismissed with prejudice;

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- 1 4. That Defendant be awarded its costs of suit in this matter; and
2 5. For such other and further relief as the Court may deem just and proper.
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4 Dated: September 19, 2018

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A Professional Corporation
Julie R. Trotter
Kent R. Christensen
Delavan J. Dickson

8 By: /s/ Julie R. Trotter
Julie R. Trotter

9 Attorneys for Defendant 7-Eleven, Inc.
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13 **DEMAND FOR JURY TRIAL**

14 Defendant hereby demands a trial by jury pursuant to Federal Rule of Civil
15 Procedure 38 and the Seventh Amendment to the Constitution of the United States.
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17 Dated: September 19, 2018

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